

REMARKS

Claims 1-24 are pending in the application. Favorable consideration is requested.

Once again, respectfully stated, the Office Action includes errors and inconsistencies and is believed to contain rejections that should be withdrawn.

The following prior art rejections have been asserted against the claims:

1. Claims 1, 3, 5-6, 8-9, 12, 14, 15, 17-20, and 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bonsall et al (USP 5,865,766) in view of Blum (USP 4,268,268) and further in view of Pfeiffer et al (USP 5,902,253).
2. Claims 2, 4, 13, 16, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blum and Pfeiffer in view of Suzuki et al (USP 6,595,948).
3. Claims 7, 10, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blum and Pfeiffer in view of Klein et al (USP 4,244,787).

Applicant requests the withdrawal of these rejections for at least the following reasons.

All claims depend either directly or indirectly from claim 1. Claim 1 is only rejected on the ground of obviousness based on Bonsall (USP 5,865,766) in view of Blum (USP 4,268,268). In the rejection of claim 1, Pfeiffer (USP 5,902,253) is never used. Applicant submits that the combined teachings of Bonsall and Blum do not allow a person of skill in the art to arrive at the subject matter of claim 1.

In contrast to the claimed invention, the primary reference Bonsall does not disclose a system comprising a series of sampling containers, or a series of valves adapted to direct a certain quantity of each fluid fraction sample of dialysate taken from a peritoneum of a patient to a specific sampling container in the series of sampling containers.

Blum does not cure the deficiencies of Bonsall. In fact, and in contrast to the claimed peritoneal dialysis sampling system, Blum does not disclose any peritoneal dialysis sampling system. Instead, Blum simply discloses a system to analyze cells such as blood cells. Moreover, Blum does not disclose a system comprising a series of valves adapted to direct a certain quantity of each fluid fraction sample of dialysate taken from a peritoneum of a patient to a specific sampling container in the series of sampling containers. In Blum's system to analyze cells, only a four position rotary valve (21) is connected to four radioactivity measuring devices (23) (see Blum's figure 1). These teachings in Bonsall and Blum would not lead a person of skill in the art to the claimed invention.

Applicant also notes that Bonsall does not disclose or suggest the value of having multiple fluid samples to improve the determination of the peritoneal membrane characteristics. Similarly, Blum does not encourage the skilled person in the art to provide the system with several sampling containers in order to improve the determination of the characteristics of the peritoneal membrane, and also to provide it with a series of valves adapted to direct a certain quantity of each fluid sample of dialysate taken from a peritoneum of a patient to a specific sampling container. It must also be stressed that starting from Bonsall, the skilled person would not look at Blum to find a solution to the problem posed because Blum does not deal with a peritoneal dialysis sampling system adapted to automatically sample at specific time intervals volumetric fractions of dialysate contained in the peritoneum of the patient. Even if the skilled person were to consider Blum, he would not arrive at the claimed subject-matter because there is no disclosure or suggestion in Blum of a series of valves and a series of sample containers that allows one to determine the peritoneal membrane characteristics.

Finally, with respect to claims 5 and 22, the combined teaching of Bonsall and Blum does not disclose or suggest a system which would not only take a sample during the drain phase but also in other phases, for example, dwell. In the claimed invention, the automatic sampling can be made during the dwell time of the peritoneal dialysis cycle and/or during the drain cycle without interfering with the peritoneal dialysis system. This is significant progress because measurements during certain periods such as dwell time were impossible to carry out in the prior art.

In summary, the claimed invention provides an automatic peritoneal dialysis sampling system that comprises a series of sampling containers and a series of valves, and this system is adapted to automatically sample at specific time intervals volumic fractions of a dialysate taken from a peritoneum of a patient in order to determine the peritoneal membrane characteristics. These features are not taught or suggested by Bonsall or Blum, either individually or in any reasonably apparent combination.

For at least the foregoing reasons, there is no prima facie case of obviousness of claim 1 and its dependent claims. As a result, the rejection of claim 1 should be withdrawn. This means that claim 1 and all of its dependent claims are allowable.

Applicant respectfully submits that the application is in condition for allowance. A notice to that effect is earnestly solicited.

If the Examiner has any questions concerning this case, the undersigned may be contacted at 703-816-4009.

NEFTEL
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